GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0562	**Title:**	Provide tax incentives for renewable energy and energy conservation
Primary Sponsor:	Laslovich, Jesse	**Status:**	As Introduced

- ☑ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$82,914	$33,610	$34,450	$35,312
Revenue:				
General Fund	($2,294,044)	($2,646,922)	($3,670,452)	($4,016,286)
State Special Revenue	$0	$18,000	($15,000)	($15,000)
Net Impact-General Fund Balance:	($2,376,958)	($2,680,532)	($3,704,902)	($4,051,598)

Description of fiscal impact:

This bill does four separate things:

- Sections 1 through 6 provide that certain types of alternative energy production property are to be taxed as Class 5 property, and provides an abatement of 50% of the first 10 years' property taxes for these types of property.
- Sections 7 through 16 create four new classes of property for transmission lines and pipelines used to transport the output of alternative energy facilities or carbon dioxide for sequestration,
- Section 17 expands the income tax credit for energy efficiency investments in 15-32-109, MCA, and
- Section 18 amends 61-3-321, MCA, to exempt new light vehicles with an EPA highway fuel economy rating of at least 35 miles per gallon from the first two years' registration fees.

FISCAL ANALYSIS

This bill is intended to provide incentives for investments in certain types of property. If successful, these incentives will result in additional property being constructed and taxes being collected on property that would not exist without the incentives. Tax incentives may also result in lower taxes being paid on existing property or on new property that would have been constructed without the incentives. To avoid speculation about the effects of incentives on investment decisions, the fiscal analysis section of this fiscal note examines the effects of this bill only on property that is in the development process or can reasonably be interpreted as being included in the HJR 2 property tax revenue estimates. Potential impacts of additional property that might be constructed in response to incentives is discussed in the long-range impacts section.

Assumptions:
Department of Revenue

Reclassification of Certain Energy Production Property and Partial Property Tax Abatement

1. Section 6 amends 15-6-135, MCA, to make *all* property of biodiesel production facilities, biogas production facilities, biomass gasification facilities, coal gasification facilities that sequester carbon dioxide, ethanol productions facilities, geothermal facilities, integrated gasification combined cycle facilities, and renewable energy manufacturing facilities Class 5 property. Class 5 property is taxed at 3% of market value, i.e. property tax is calculated by applying mill levies to 3% of market value.
2. Under current law, any of these facilities that are used to generate electricity would be Class 5 property if owned by a rural electric cooperative and Class 13 property otherwise. Class 13 property is taxed at 6% of its market value.
3. Under current law, land and buildings of any of these facilities not used to generate electricity would be Class 4 property, which is taxed at 3.01% of market value. Equipment of these facilities would be Class 8 property, which is taxed at 3% of its market value.
4. Property of these facilities, other than integrated gasification combined cycle facilities, and renewable energy research and development equipment with a market value of $150,000 or more would be eligible for abatement of 50% of property taxes for 10 years. To receive the abatement, a facility would need to begin construction after June 30, 2007 and pay the prevailing wages for heavy construction. Renewable research and development equipment would need to be placed in service after June 30, 2007.

5. The first row of the following table shows the market value of new biodiesel and ethanol facilities identified by DEQ as being likely to be built in the state through 2010. The HJR 2 property tax assumptions imply growth of almost $2 billion per year of market value in the combination of Classes 4 and 8. These projects therefore can reasonably be assumed to be included in the HJR 2 property tax projections. The second row shows the taxable value of these facilities under current law, assuming that 90% of the value is equipment in Class 8 and 10% is real estate in Class 4. The next three rows show expected state and local property taxes under current law. The next four rows show taxable value with all property of these facilities in Class 5 and the resulting state and local property taxes. The last three rows show the differences in state and local property taxes due to Sections 1 through 6.

Expected Facilities Changed From Class 8 and 4 to Class 5 and Given Abatement

	2008	2009	2010
Market Value ($ million)	0.100	367.900	368.010
Taxable Value 90% Class 8 & 10% Class 4	0.003	11.041	11.044
Tax ($ million) on			
State 95 mills (general fund)	0.000	1.049	1.049
State 6 mills (university system)	0.000	0.066	0.066
Local 364 mills (statewide rural average)	0.001	4.019	4.020
Taxable Value 100% Class 5	0.003	11.037	11.040
Tax ($ million) with 50% abatement on			
State 95 mills (general fund)	0.000	0.524	0.524
State 6 mills (university system)	0.000	0.033	0.033
Local 364 mills (statewide rural average)	0.001	2.009	2.009
Difference in Tax ($ million)			
State 95 mills (general fund)	0.000	-0.525	-0.525
State 6 mills (university system)	0.000	-0.033	-0.033
Local 364 mills (statewide rural average)	-0.001	-2.010	-2.011

6. No other types of facilities affected by Sections 1 through 6 are likely to be built before 2010.
7. The equipment in these facilities will be permanently attached to the structures, so that all property taxes on these facilities for tax year 2008 will be paid in FY 2009, and the same for following years. Sections 1 through 6 will reduce general fund revenue by less than $500 in FY 2009 and by $525,000 in FY 2010 and FY 2011. These sections will reduce university system revenue by less than $500 in FY 2009 and by $33,000 in FY 2010 and FY 2011.

New Property Classes

8. Under current law, electric transmission lines owned by centrally assessed utilities and pipelines are Class 9 property, taxed at 12% of market value. Electric transmission lines owned by rural electric cooperatives are Class 5 property, taxed at 3% of market value.
9. Section 9 creates a new class of property, Class 15. Class 15 property includes electric transmission lines constructed or upgraded after June 30, 2007 and that have been certified to have at least 25% but less than 65% of firm capacity committed to electricity from certified green facilities. Green facilities include biogas production, biomass gasification, coal gasification, geothermal, wind generation, and integrated gasification combined cycle facilities. Class 15 property would be taxed at 9% of market value.

10. Section 10 creates a new Class 16. Class 16 property includes electric transmission lines constructed or upgraded after June 30, 2007 and that have been certified to have at least 65% but less than 100% of firm capacity committed to electricity from certified green facilities. Class 16 property would be taxed at 6% of market value.
11. Section 11 creates a new Class 17, which includes electric transmission lines constructed or upgraded after June 30, 2007 and that have been certified to have 100% of firm capacity committed to electricity from certified green facilities. Class 17 property would be taxed at 3% of market value.
12. Section 12 creates a new Class 18. Class 18 property includes pipelines and equipment for carbon dioxide sequestration and pipelines with 100% of capacity dedicated to transporting methane or liquid fuels from a coal gasification, biodiesel production, biogas production, biomass gasification, or ethanol production facility. Class 18 property would be taxed at 3% of market value.
13. One electric transmission line that would be classified as Class 16 property is expected to be built in 2008. The market value of this line is expected to be approximately $50.674 million (Draft Environmental Impact Statement for the Montana-Alberta Tie Ltd. 230-kV Transmission Line.) The HJR 2 property tax assumptions imply $66.1 million in additional market value in Class 9 for 2008. Therefore, this project could reasonably be interpreted as being included in the HJR 2 projections. However, the developers of this project have stated that it will not be built in Montana if the line is taxed at the 12% Class 9 tax rate. Assuming that this is true, this bill would result in an increase in taxable value in Class 16 of $3.040 million (6% x $50.674 million) beginning in 2008 and no change in Class 9. Beginning in FY 2009, this would result in increased revenue of $289,000 per year (0.095 x $3.040 million) to the general fund, $18,000 per year (0.006 x $3.040 million) to the university system , and $1,107,000 to local governments and school districts (0.364 x $3.040 million).

Expanded Energy Efficiency Credit

14. Under current law, taxpayers are allowed a credit of 25% of eligible expenditures, with the credit limited to $500. (A married couple counts as two taxpayers whether they file separate returns or a joint return.) Thus, taxpayers with eligible expenditures of $2,000 or less are unaffected by the current cap, while taxpayers with eligible expenditures of more than $2,000 are limited to a credit of $500.
15. On 2005 returns, 4,692 taxpayers claimed $500 credits. Total credits claimed by capped taxpayers were $2,346,000.
16. Based on the distribution of credits less than $500, it is assumed that each $50 increase in the cap would reduce the number of capped taxpayers 10%. It is also assumed that the average credit claimed by taxpayers who would be removed from the cap by increasing it by $50 is $25 more than the original cap. For example, increasing the cap from $500 to $550 would reduce the number of capped taxpayers from 4,692 to 4,223, and the average credit claimed by the 469 taxpayers who are capped at $500 but not at $550 would be $525.
17. With a cap of $1,000, 1,054 taxpayers would claim credits equal to the cap. They would claim a total of $1,054,404 in credits. There would be 3,638 taxpayers who would be capped at $500 but not at $1,000. They would claim a total of $2,743,197 in credits (an average of $754). Total credits claimed by taxpayers who are capped under current law would be $3,797,600, an increase of $1,451,600.
18. On 2005 returns, taxpayers who met the income requirements to have the credit refunded under this bill claimed credits that were $375,422 more than their tax liability. Under this bill, that amount would have been refunded to taxpayers.
19. If this bill had been in effect in 2005, credits would have been $1,827,022 higher ($1,451,600 + $375,422).
20. Use of the energy conservation credit has grown rapidly in recent years and is expected to continue to grow. This credit is not forecast separately in HJR 2, but it accounts for a large part of a group of credits that are forecast to grow by 15.49% from 2005 to 2007, 11.23% in 2008, and 10.10% in 2009 and 2010. Assuming that the increases due to this bill will grow at the same rates, this bill would increase credits by

$2,110,028 in 2007 ($1,827,022 x 115.49%), by $2,346,984 in 2008 ($2,110,028 x 111.23%), by $2,584,029 in 2009 ($2,346,984 x 110.10%), and by $2,845,016 in 2010 ($2,584,029 x 110.10%).

21. Credits will be claimed on income tax returns filed in the spring following each tax year. The increases in credits for 2007 through 2010 will result in the same reductions in revenue for FY 2008 through FY 2011.

Total Revenue Impacts

22. The following table summarizes revenue impacts through FY 2011.

Department of Revenue Impacts of SB 562

	FY 2008	FY 2009	FY 2010	FY 2011
General Fund				
Class 5 Abatement	-	-	($525,000)	($525,000)
New Property Classes	-	$289,000	$289,000	$289,000
Expanded Conservation Credit	($2,110,028)	($2,346,984)	($2,584,029)	($2,845,016)
Total General Fund	($2,110,028)	($2,057,984)	($2,820,029)	($3,081,016)
6 - Mill				
Class 5 Abatement	-	-	($33,000)	($33,000)
New Property Classes	-	$18,000	$18,000	$18,000
Total 6 - Mill	$0	$18,000	($15,000)	($15,000)
Local Governments and School Districts				
Class 5 Abatement	-	($1,000)	($2,010,000)	($2,011,000)
New Property Classes	-	$1,107,000	$1,107,000	$1,107,000
Total Local Mills	$0	$1,106,000	($903,000)	($904,000)

Department of Revenue Costs

23. The changes to tax classes in this bill would not affect the department's costs of performing its property tax functions.
24. Department auditors adjust approximately 25% of the claims for the energy conservation credit that they examine. With the growth in use of this credit since it was last amended and the growth expected because of this bill, the department is not able to audit enough of the returns to ensure high taxpayer compliance with the law. To ensure adequate auditing with the increased credits, the department would need an additional half-time tax examiner with annual salary of $18,086 and annual benefits of $9,578. Total personal services costs would be $27,664 per year. Equipment costs to set up a new employee would be $5,900 in FY 2008. Operating costs would be $5,498 in FY 2008 and $5,946 per year in FY 2009 and later years. Total additional costs would be $39,062 in FY 2008 and $33,610 per year in FY 2009 and later years. A growth rate of 2.5% was applied to the administrative costs for FY 2010 and FY 2011.

DOJ Motor Vehicle Division

25. Section 18 provides an exemption for two years from the motor vehicle registration fee provided in 61-3-321(2)(d), MCA, for new light vehicles that have an average of 35 miles per gallon for highway driving as published in an approved fuel economy guide.
26. In calendar year 2006 there were 1,542 vehicles meeting the make and model criteria as published in the Fuel Economy Guide published by the US Department of Energy that would have qualified for the motor vehicle registration exemption provided by this bill.

27. For the purposes of this fiscal note the number of vehicles meeting the criteria of this bill will increase 10% in FY 2008 and FY 2009 and 10% in subsequent years. The effective date of the bill, January 1, 2008, limits the FY 2008 fiscal impact to one-half year.
28. In FY 2008, 848 (1,542 x 1.10 x 0.5) vehicles will have registration fees exempted under the bill. In FY 2009, those vehicles exempted in FY 2008 will be exempted again and an additional 1,866 (1,696 x 1.1) vehicles will be exempted, totaling 2,714 vehicles. In FY 2010, 3,919 (1,866 + (1,866 x 1.1)) vehicles will be exempted. In FY 2011, 4,310 (2,052 + (2,052 x 1.1)) vehicles will be exempted.
29. The registration fee for new vehicles is $217.
30. It is estimated that general fund revenues will decrease $184,016 in FY 2008 (848 x $217), $588,938 (2,714 x $217) in FY 2009, $850,423 in FY 2010, and $935,270 in FY 2011.
31. To configure the MERLIN (Montana Enhanced Registration and Licensing Information Network) system to be in compliance with the requirements of this bill, the Department of Justice will facilitate a change order with Bearing Point/3M.
32. It is estimated that Bearing Point/3M will need approximately 228 hours to: identify the system requirements to bring the MERLIN system into compliance with this bill; develop the MERLIN system to adhere to the identified requirements; and test the system to ensure it is configured to be compliant with the requirements of this bill.
33. The estimated cost of the change order for this work to be completed by Bearing Point/3M is $34,252 to do the following:
    - Add another registration exemption reason for the mpg rating
    - Add vehicle attributes for the mpg rating
    - Add business rules regarding the use of the new exemption
    - A UI change for the mpg rating to be entered by the user and stored with the vehicle data in the database.
34. To program the database interface with the MERLIN system to populate the miles per gallon rating field in the vehicle maintenance module it is estimated that one database programmer will be required at approximately $80.00/hour for 120 hours totaling $9,600.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	0.50	0.50	0.50	0.50
Expenditures:				
Personal Services	$27,664	$27,664	$28,356	$29,064
Operating Expenses	$49,350	$5,946	$6,095	$6,247
Equipment	$5,900	$0	$0	$0
TOTAL Expenditures	$82,914	$33,610	$34,450	$35,312
Funding of Expenditures:				
General Fund (01)	$82,914	$33,610	$34,450	$35,312
TOTAL Funding of Exp.	$82,914	$33,610	$34,450	$35,312
Revenues:				
General Fund (01)	($2,294,044)	($2,646,922)	($3,670,452)	($4,016,286)
State Special Revenue (02)	$0	$18,000	($15,000)	($15,000)
TOTAL Revenues	($2,294,044)	($2,628,922)	($3,685,452)	($4,031,286)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($2,376,958)	($2,680,532)	($3,704,902)	($4,051,598)
State Special Revenue (02)	$0	$18,000	($15,000)	($15,000)

Effect on County or Other Local Revenues or Expenditures:

1. As shown above, this bill would *increase* property taxes to local governments and schools by $1,106,000 in FY 2009 and *reduce* property taxes to local governments and schools by $903,000 in FY 2010 and $904,000 in FY 2011.

Long-Range Impacts:

1. Some energy projects whose property taxes are affected by this bill are almost certain to be built in Montana in the future. Electricity transmission projects with combined cost of about $1 billion are being considered for 2011. Various coal conversion projects with costs between $600 million and $1 billion each are being considered. How this bill affects taxes on a particular project depends on whether it would be built without the incentives in this bill. If the project would be built without the incentives, this bill would reduce revenues below what they would have been without it. If the project would not be built without the incentives, this bill would increase revenues beyond what they would have been.
2. The following tables show the property taxes on a $1 billion electricity transmission project and a $1 billion coal conversion project under current law and under this bill. For the transmission project, it shows the three possible tax treatments, which depend on the percent of the project's firm capacity that is contracted to carry green power.

Taxes from Hypothetical $1 Billion Transmission Project
($ million)

	Tax Rate	Taxable Value	State 95 mills	State 6 mills	Local 364 mills
Current Law - Class 9	12%	$120.00	$11.40	$0.72	$43.68
SB 562 - Class 15	9%	$90.00	$8.55	$0.54	$32.76
SB 562 - Class 16	6%	$60.00	$5.70	$0.36	$21.84
SB 562 - Class 17	3%	$30.00	$2.85	$0.18	$10.92

Taxes From Hypothetical $1 Billion Coal Conversion Project
($ million)

	Tax Rate	Taxable Value	State 95 mills	State 6 mills	Local 364 mills
Current Law	3%	$30.00	$2.85	$0.18	$10.92
SB 562 50% Abatement	3%	$30.00	$1.43	$0.09	$5.46

3. The following table shows the impacts of SB 562 on state and local property taxes if these projects *would not* be built without the incentives in this bill.

Revenue Impact if Projects Would Not Be Built Without Incentives
($ million)

	State 95 mills	State 6 mills	Local 364 mills
Transmission Project - Class 15	$8.55	$0.54	$32.76
Transmission Project - Class 16	$5.70	$0.36	$21.84
Transmission Project - Class 17	$2.85	$0.18	$10.92
Coal Conversion Project - 50% Abatement	$1.43	$0.09	$5.46

4. This table shows the impacts of SB 562 on state and local property taxes if these projects *would* be built without the incentives in this bill.

Revenue Impact if Projects Would Be Built Without Incentives
($ million)

	State 95 mills	State 6 mills	Local 364 mills
Transmission Project - Class 15	($2.85)	($0.18)	($10.92)
Transmission Project - Class 16	($5.70)	($0.36)	($21.84)
Transmission Project - Class 17	($8.55)	($0.54)	($32.76)
Coal Conversion Project - 50% Abatement	($1.43)	($0.09)	($5.46)

Sponsor's Initials *Date* *Budget Director's Initials* *Date*